

ENTERED

April 01, 2021

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ELIJAH BURKE SWALLOW,
TDCJ #2100152,

§
§

Plaintiff,

§
§

v.

CIVIL ACTION NO. H-20-2232

SHERIFF ED GONZALEZ, et al.,

§
§

Defendants.

§

ORDER TO REINSTATE

On January 15, 2021, the court dismissed the Prisoner's Civil Rights Complaint ("Complaint") (Docket Entry No. 1) filed by state inmate Elijah Burke Swallow because he failed to comply with an Order For More Definite Statement (Docket Entry No. 8), which requested additional details about his claims. See Order of Dismissal, Docket Entry No. 9, pp. 1-2. Swallow has now filed a motion seeking relief from the Order of Dismissal under Rule 60(b) of the Federal Rules of Civil Procedure ("Plaintiff's Motion for Relief") (Docket Entry No. 13), explaining that prison mailroom officials neglected to mail his response to the Order For More Definite Statement in a timely manner. Swallow has also filed a response to the court's Order for More Definite Statement ("Plaintiff's More Definite Statement") (Docket Entry No. 12).

Swallow has not provided prison mailroom records or other documentation showing that he placed his response to the court's

Order For More Definite Statement in the prison mail system within the time allowed or that any failure to timely deliver that response was attributable to prison mailroom personnel. Nevertheless, because Swallow has submitted a response to the Order For More Definite Statement the court will grant relief from the Order of Dismissal and will reinstate this case for further proceedings under 28 U.S.C. § 1915(e)(2)(B).

Accordingly, the court **ORDERS** as follows:

1. The Plaintiff's Motion for Relief (Docket Entry No.

13) is **GRANTED**.

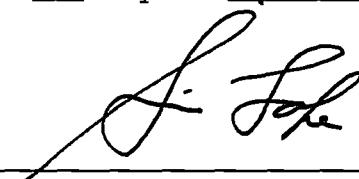
2. The Order of Dismissal entered on January 15, 2021

(Docket Entry No. 9) is **VACATED**.

3. The Clerk's Office shall **REINSTATE** this civil action to the court's active docket.

The Clerk's Office shall send a copy of this Order to the plaintiff.

SIGNED at Houston, Texas, on this 1st day of April, 2021.



SIM LAKE
SENIOR UNITED STATES DISTRICT JUDGE